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SENSITIVE
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DEPT. PASS TO TREASURY FOR COHEN
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TAGS: [EFIN](#) [SNAR](#) [EIND](#) [PGOV](#) [PTER](#) [AJ](#)
SUBJECT: AZERBAIJAN: TREASURY A/S COHEN DISCUSSES AML/CTF
WITH MINISTER OF FINANCE STATE SECURITIES COMMISSION AND
CENTRAL BANK

REF: 09 BAKU 905

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11. (U) SUMMARY: During his first visit to Baku, October 21-22, Treasury Department Assistant Secretary for Terrorist Financing, David S. Cohen, met with Government of Azerbaijan (GOAJ) officials and private sector business representatives. In meetings with the Minister Finance, Chairman of the Central Bank, and Chairman of the State Committee for Securities, A/S Cohen acknowledged GOAJ efforts to counter terrorist financing and recognized progress made on preparing a solid AML/CTF regime. In all of these meetings A/S Cohen praised the adoption of the new AML/CTF law as a positive step, but highlighted the need for awareness of the risks of doing business with Iranian financial institutions and businesses. Meetings with representatives from Azerbaijan's Pasha Bank and Unibank and a local representative of the European Bank for Reconstruction and Development as well as the Board of Directors of the American Chamber of Commerce (AmCham) were previously reported (REFTEL). Azerbaijan's Central Bank has requested technical assistance to facilitate AML implementation and the further establishment of a Financial Investigations Unit. Embassy supports this request. End Summary.

Minister of Finance

12. (SBU) In his meeting with Minister of Finance Samir Sharifov, A/S Cohen praised GOAJ law enforcement agencies for cooperating with relevant U.S. agencies in countering terrorist financing, recognizing that Azerbaijan is located in a volatile region, in between Iran and Russia's North Caucasus region. Minister Sharifov concurred; saying, "As we are at the crossroads we need to look at theses issues with more care than we might want to - but we have to do it." Both acknowledged that narcotics and arms trafficking are interrelated with terrorist financing and agreed that one of the most effective ways to fight these illegal activities is to attack their financial support networks.

13. (SBU) Sharifov commented that he was part of the team that set up the joint Azerbaijan-U.S. Anti-Terrorist Commission in 2001 and declared the new anti-money laundering (AML) law to be a positive result of that cooperation. He noted that as Co-Chair of the U.S. Azerbaijan Economic Partnership Commission (EPC) his office had always been in favor of the law. He explained that because the law originally came up for parliamentary review at the same time

as the global financial crisis hit, Parliament delayed passing it out of fear that it would decrease deposits. That, in conjunction with a short-lived speculative run on the banks, caused concern about a decrease in liquidity in Azerbaijan.

14. (SBU) Regarding the Financial Investigations Unit (FIU), he noted that it was originally offered to the Ministry of Finance, but said he felt that the Central Bank was a better location, as the Central Bank is in a better position to monitor and regulate private banks. He commented that it took some time to find the right person to head the organization, but stated he had faith in (current director) Adshirin Qasimov's ability to do the job. He noted that funding has already been allocated for the FIU to begin staffing up to do its work. He agreed with A/S Cohen that the FIU regulations should apply to all financial institutions including banks, insurance agencies, notaries, and other agents of financial control.

15. (SBU) A/S Cohen expressed concern regarding the definition of terrorist financing in the current law, noting that it seemed to be written to address specific acts of terrorism, but still allowed for general financial support of such organizations. Minister Sharifov said he would need to check the specific legislation but doubted it would have such a loophole because of the norms of Azerbaijani law whereby not only the criminal who attempts the act, but any and all supporters can also be prosecuted. He reiterated the bankers' concerns that there need to be checks and balances in the system cautioning that a freehand to law enforcement agencies, who tend to overact in Azerbaijan, could be a "nightmare".

16. (SBU) NOTE: Minister Sharifov is eager to restart the
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EPC as soon as a new USG co-Chair is appointed (presumably EEB A/S Jose Fernandez) and indicated that the GOAJ would seek some movement on Azerbaijan's designation under Section 907 of the Freedom Support Act, and the Jackson-Vanik amendment in the near term. Noting that these two designations are detrimental to U.S. Azerbaijan economic relations he said, at the very least, they would hope for the "usual" waiver of Jackson-Vanik if the amendment could not be abolished by January. End Note.

Financial Relationships with Iran

17. (SBU) A/S Cohen explained to Sharifov that the Financial Action Task Force's (FATF) concerns regarding Iran stem from Iran's lack of anti-money laundering and terrorist financing controls. He noted that in 2009 alone the FATF issued three statements urging all jurisdictions to apply effective counter-measures to protect their financial sectors from money laundering and terrorist financing risks emanating from Iran. Cohen noted that one way to apply effective countermeasures is to apply enhanced scrutiny to correspondent relationships between Azerbaijani and Iranian financial institutions. Sharifov remarked that Iran is Azerbaijan's neighbor, "but neighbors do not always get along." He noted that the GOAJ understands the U.S. position, but counseled A/S Cohen that the U.S. needs to try to understand Azerbaijan. Pointing out that Azerbaijan is largely landlocked between Iran, Georgia and Russia, and needs to use Iranian territory to access the Nakhchivan enclave, he remarked, "You are far away and big; and we are close - and small." He commented that "noisy" methods do not play well in Iran and offered that "if there is a problem, tell us and we'll try to find a quiet way to handle it."

18. (SBU) Sharifov explained that the banking license for Bank Mellat Iran was issued long ago and that the Central Bank was aware of the issues surrounding it, but they cannot simply close them down. He stated that if the GOAJ did so,

it would be politicized. He noted that Iran has a lot of liquidity and no place to spend it, because of the sanctions squeeze. He commented that they need to earn some interest on their money and, therefore, it is highly possible that local banks and companies have some Iranian deposits.

State Securities Commission

¶9. (SBU) In a meeting with Rufat Aslanly, Chairman of the State Committee for Securities (SCS) and Anar Ahkmedov, Head of the Marketing Department, A/S Cohen inquired about the SCS's overall role in the new Anti-Money Laundering (AML) regime and its relationship with the Financial Investigation Unit (FIU). Aslanly informed him that he is additionally the head of the interagency AML Commission. Aslanly stated that passing the AML law was an important first step, but also noted they have since begun to take steps to implement it. This includes creating 4 codes, 16 laws, 6 Presidential decrees and more than 100 amendments. He claimed the GOAJ had implemented institutional reforms, including creating 6 supervisory agencies for securities, insurance, designated non-financial businesses and professions (DNFBP), non-profit religious organizations, and banks. He stated their goal was to have the FIU functional by the end of December, before the next Moneyval review. He claimed that the FIU is fully independent; accountable only to the President.

¶10. (SBU) When asked about currency transaction reports (CTR), Aslanly stated that since 2003 the CTR and suspicious transaction reports (STR) requirements had only been applied to financial institutions. Aslanly also noted that reporting standards on transactions were currently awaiting approval of the Ministry of Justice. He said that now the responsibility for monitoring the reporting would transfer to the FIU and include DNFBPs by the end of December. He noted that because they had been doing this 2003, they had a five-year database to analyze.

¶11. (SBU) Aslanly was particularly concerned about Azerbaijan being included in the 25 countries under review by FATF,s International Cooperation Review Group (ICRG). He said the GOAJ was "surprised" to be included in the full review plan at the Paris FATF meeting in October 2009, but

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noted that they now had an action plan. He recalled that during the 2008 mutual evaluation by Moneyval, the GOAJ had 9 non-compliant (NC) or partially compliant (PC) grades out of 16 key and core FATF recommendations. He said they believed their situation to be very different today. Aslanly stated that the GOAJ planned to add changes to the criminal code and believed it would be able to demonstrate enough development to be excluded from the list. A/S Cohen commented that while the USG could not predict Moneyval or FATF,s decisions in December and February, it was clear that GOAJ actions were moving in the right direction. He noted that strong political will to improve and finalize the legislation was necessary and that with this; the final result would be a well-functioning AML/CTF regime. Aslanly noted the GOAJ had constructive and proactive interaction with the U.S. delegation and thanked the A/S for USG support. (NOTE: On Dec. 11, 2009 Moneyval decided to eliminate the special monitoring regime applied to Azerbaijan. End note.)

¶12. (SBU) When asked the same question posed to the Minister of Finance about a loop hole in the law allowing terrorist financing as long as it was not associated with a specific terrorist act, Aslanly stated that he did not believe that was the case since the current law mirrors all international conventions and would include the attempt or participation - knowingly or unknowingly as a crime.

Central Bank

¶13. (SBU) In his meeting with Central Bank Chairman Elman Rustamov, A/S Cohen asked about banking supervision and control as well as AML/CTF developments. A/S Cohen praised the recent steps taken in Azerbaijan. He also inquired about GOAJ plans to make the FIU, sometimes referred to as the Financial Management Unit (FMU) or Financial Management Service (FMS) functional. Rustamov noted that the central bank had been working on the logistics, including staffing and operations, for over five years. He explained that transitional countries normally face difficulties with this type of thing but, highlighted the important steps the GOAJ had taken, especially in 2009. These steps included the Presidential decree establishing the FIU, appointment of department heads, creation of separate office space, and adoption of an approved action plan. Rustamov expressed his concern regarding Moneyval and FATF assessments and noted the GOAJ would like to see more trust from the U.S. side, not pressure. He described the U.S. position as &radical8 at the last FATF session and stated they would like a softer more supportive approach. A/S Cohen commented that while the U.S. could not predict the FATF,s decision, we are happy to have been of assistance in preparing law and stand ready to advise and assist in implementing that law.

¶14. (SBU) Acknowledging Azerbaijan,s financial exposure to Iran as well as the common history and culture between both countries, A/S Cohen reminded the Central Bank Chairman of the FATF statements on Iran. In response, Rustamov explained how the Central Bank transmitted the FATF statements to financial institutions. Furthermore, Central Bank staff explained that the Baku branch of Bank Melli Iran operated within the Azerbaijani legal framework and had, on occasion identified and blocked suspect transactions involving designated entities within Iran in the past. Rustamov closed the meeting by noting that Azerbaijan had minimal trade and economic relations with Iran, and that GOAJ authorities maintained strict monitoring over all foreign financial institutions.

¶15. (U) COMMENT: Post has received copies of the Action Plan and a list of specific technical assistance requests and forwarded them on to INL and Treasury. This is a rare opportunity to support a developing institution where the host country is particularly interested in receiving our support, and where our best interests can be served by providing that technical assistance. Post requests EUR/ACE to provide funding to support this technical assistance program.

¶16. (U) Treasury has cleared this cable.
GARVERICK